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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,848	12/08/2000	William J. Byrne	2222.0310000	2028
26111	7590	10/05/2005	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			SING, SIMON P	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,848

Applicant(s)

BYRNE ET AL.

Examiner

Simon Sing

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 06/23/2005.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Arguments

1. Applicant's argument, see interview summary enclosed, that Gergic (US20020198719) is not a prior art is persuasive. The final of rejection of claims 3-28 has been withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 9-14 and 21-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The applicant claims executing an embedded element of high-level language to generate a script fragment of a language (VoiceXML) for scripting interactive voice response service, and then executing the generated script fragment to: randomly selecting an audio prompt from a set of audio prompts (claims 10 and 22); selecting an audio prompt from a set of audio prompts in accordance with a predetermined selection order (claims 11 and 23); selecting an audio prompt from a variable length list of audio

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prompts (claims 12 and 24); selecting a first audio prompt or a second audio prompt based on a determination of a first user interaction (claims 13 and 25); and routing an incoming call to one or more application programs (claims 14 and 26). As an example in page 7 of the Specification, executing an embedded high-level programming element, such as `<%=msg.getFrom()>%` generates a script fragment "Joe Smith" and `<%=meg.getSubject()>%` generates a script fragment "airplane delay", which after processing, via an Interpreter, are converted to audio and played to a user as part of a voice message. Executing (interpreting) "Joe Smith" or "airplane delay" can only repeat a fragment of the voice message. As another example in page 10 of the Specification, executing an embedded high-level programming element, such as `<Math.random()/4>` generates script fragment, i.e. a random number between one to five, and the random number is then compared to a predetermined number to select an predetermined audio prompt.

However, a number (generated script fragments) cannot be executed since it is a constant in a computer program, therefore, one skill in the art is unable to execute a number for randomly selecting an audio prompts from a set (or list) of audio prompts, or for selecting an audio prompt based on a predetermined order, etc.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 3-8, 15-20, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by VoiceXML Forum (Forum hereafter).

3.1 Regarding claim 3, Forum teaches using a script composed in accordance with a Voice eXtensible markup language (VoiceXML) for scripting interactive voice response services (page 6) and having embedded an element (object) of a high-level programming language (ESMA Script, i.e. JAVA Script, page 79), such as the object (debit.card.number) in a VoiceXML prompt: "The card number is <value expr="debit.card_no"/>" in section 14.5, page 60, and when the prompt is processed, the object "debit.card_no" is replaced with a card number, for example 1234 5678 2345 6789 (generated script segment), and the text in the processed prompt will be: "The credit card number is 1234 5678 2345 6789", which is then convert to audio by an Interpreter.

3.2 Regarding claims 4 and 27, as discussed in claim 3, the language is VoiceXML (voice extensible markup language).

3.3 Regarding claim 5, as discussed in claim 3, the high level language is JAVA.

3.4 Regarding claim 7, Forum discloses receive voice request fro weather information form a user and processing the request (paged 24 and 25).

3.5 Regarding claim 8, Forum discloses http linkage (page 24).

3.6 Regarding claim 15, forum discloses a VoiceXML interpreter in page 7. Forum teaches an application program (Voice Response Application) adapted to select and process a VoiceXML with embedded an element (object) of a high-level programming language (ESMA Script, i.e. JAVA Script, page 79), such as the object (debit.card.number) in a VoiceXML prompt: "The card number is <value expr="debit.card_no"/>" in section 14.5, page 60, and when the prompt is processed, the object "debit.card_no" is replaced with a card number, for example 1234 5678 2345 6789 (generated script segment), and the text in the process prompt will be: "The credit card number is 1234 5678 2345 6789", which is then convert to voice by a VoiceXML Interpreter.

3.7 Regarding claims 16 and 28, as discussed in claim 15, the language is VoiceXML (voice extensible markup language).

3.8 Regarding claim 17, as discussed in claim 15, Forum teaches that the high-level language is JAVA.

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3.9 Regarding claim 19, a voice response application inherently has a media telephony system adapted to receive a voice request from a user, such as a request for weather information (pages 24 and 25).

3.10 Regarding claim 20, Forum discloses http linkage (page 24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over VoiceXML Forum (Forum hereafter) in view of Campaigne et al. US 6,496,812.

The Forum teaches embedding a high-level language (i.e. JAVA) object, but fails to teach that the object comprises a Java Server Page (JSP).

However, Campaigne teaches Java objects comprises Java Servlets, Java Beans and Java Server Pages (column 6, lines 9-12).

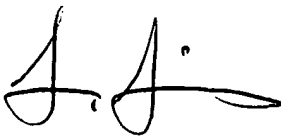
Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Forum with the teaching of Campaigne, so that object would have been comprised a Java Service Page, because such a

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modification would have enabled the Forum to included other Java objects in the VoiceXML.


Conclusion

5. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Simon Sing whose telephone number is 571-272-7545. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached at 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 (571-273-8300 after 7/15/2005). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.



S. Sing

07/05/2005



FAN TSANG
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